IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1152 OF 2006

Shri Babasaheb Panditrao Patil
and Anr. ...Petitioners.

Vs.

The State of Maharashtra
and Anr. ...Respondents.

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Mr.Mohite i/b. Paras Kuhad & Asso., Advocte for the Petitioners.
Mr.M.S.Topkar, Advocate for Respondent No.2.
Mrs.M.M.Deshmukh, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : JANUARY 29, 2007.
(IN CHAMBER)

P.C.:

1. Heard Mr.Mohite the learned counsel for the petitioners-original accused, Mr.Topkar the learned counsel for respondent No.2-original complainant, and Mrs.Deshmukh the learned APP for the State.

2. Respondent No.2-original complainant had filed complaint being Criminal Complaint (ULP) No.24 of 2002 against the petitioners before the

Labour Court at Kolhapur. The said complaint was under Section 48(1) of the MRTU & PULP Act, 1971. In the said case process came to be issued against the petitioners by order dated 8.9.2003. Prior to this, show cause notice came to be issued against the petitioners on 16.11.2002. The said show cause notice came to be challenged by the petitioners by preferring Revision No.2 of 2003. The said Revision came to be dismissed with direction to the petitioners to appear before the Labour Court on 3.7.2003. On 3.7.2003 the petitioners prayed for adjournment which came to be granted. On the same day i.e. 3.7.2003 the Labour Court passed order that no-say is filed by the accused and matter is kept for further orders. The matter was kept for further orders on 8.9.2003. On 8.9.2003 the following order came to be passed by the Labour Court at Kolhapur :-

> "No say filed. Issue process against both accused u/s 48(1) of MRTU & PULP Act, 1971."

3. The said order came to be challenged by the petitioners by filing Revision (ULP) No.48 of 2005 and Revision No.49 of 2005 before the Industrial Court at Kolhapur. The said Revisions came to be

dismissed by order dated 24.2.2006.

4. Mr.Mohite, the learned counsel for the petitioners has stated that infact on 8.9.2003 say was filed by the petitioners before the Labour Court. Mr.Topkar, the learned counsel for respondent No.2-original complainant has not denied this statement. Thus, it is an admitted fact that on 8.9.2003 infact say had been filed by the petitioners/accused in the said matter before the Labour Court.

5. In this view of the matter, I am of the opinion that in the interest of justice, the said Say, admittedly filed by the petitioners, to be considered by the Labour Court at Kolhapur before any orders are passed. Hence, the order dated 8.9.2003 passed by the Labour Court at Kolhapur in Criminal Complaint (ULP) No.24 of 2002 as well as order dated 24.2.2006 passed by the Industrial Court, Kolhapur in Revision Nos.48 of 2005 & 49 of 2005 are set-aside. The Labour Court to consider the Say of the petitioners-accused and thereafter only if found necessary may issue process against the petitioners after hearing necessary parties.

6. Criminal Writ Petition is disposed of

accordingly.

(SMT.V.K.TAHILRAMANI,J.)